

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	Board Case No.:
SPECTRUM MECHANICAL SERVICES LLC	:	03-CA-234490
	:	
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Spectrum Mechanical Services LLC, its officers, agents, successors, and assigns, enforcing its order dated September 30, 2019, in Case No. 03-CA-234490, reported at 368 NLRB No. 85, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Spectrum Mechanical Services LLC, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith

FOR THE COURT:

NATIONAL LABOR RELATIONS BOARD

v.

SPECTRUM MECHANICAL SERVICES LLC

ORDER

Spectrum Mechanical Services LLC, Buffalo, New York, its officers, agents, successors, and assigns shall

1. Cease and desist from

- (a) Failing and refusing to bargain collectively and in good faith with Journeymen Plumbers, Steamfitters, and Apprentices, U.A. Local #22 of Western New York (the Union) as the limited exclusive collective-bargaining representative of employees in the following unit during the term of the parties' Agreement, effective May 1, 2014, to April 30, 2019, by failing and refusing to continue in effect all of the terms and conditions of the 2014–2019 Agreement:

All employees performing work as set forth in Article III, Sections 3.1 through 3.4 within the geographic area as set forth in Article II of the May 1, 2014 through April 30, 2019 collective-bargaining agreement between the Union and Western New York Association of Plumbing and Mechanical Contractors, Inc.

- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) On request, bargain in good faith with the Union as the limited exclusive collective-bargaining representative of the unit employees during the term of the 2014–2019 Agreement.
- (b) Honor and comply with the terms and conditions of the 2014–2019 Agreement and rescind any and all changes to unit employees' terms and conditions of employment that the Respondent implemented by not applying the Agreement to unit employees.
- (c) Make unit employees whole for any loss of earnings or other benefits suffered as a result of the Respondent's failure, between about July 24,

2018, and April 30, 2019, to abide by and apply the terms of the 2014–2019 Agreement to the unit employees, in the manner set forth in the remedy section of this decision.

- (d) Make all contractually required contributions to the unit employees' fringe-benefit funds that it failed to make between about July 24, 2018, and April 30, 2019, if any, including any additional amounts due the funds, as set forth in the remedy section of this decision.
- (e) Reimburse unit employees for any expenses ensuing from the Respondent's failure to make the required payments to the funds, in the manner set forth in the remedy section of this decision.
- (f) Compensate the unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 3, within 21 days of the date the amount of backpay pay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.
- (g) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner.
- (h) Within 14 days after service by the Region, post at its facility in Buffalo, New York, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own

expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since about July 24, 2018.

- (i) Within 21 days after service by the Region, file with the Regional Director for Region 3 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively and in good faith with Journeymen Plumbers, Steamfitters, and Apprentices, U.A. Local #22 of Western New York (the Union) as the limited exclusive collective-bargaining representative of our employees in the following unit during the term of our 2014–2019 Agreement with the Union by failing and refusing to continue in effect all of the terms and conditions of the 2014–2019 Agreement:

All employees performing work as set forth in Article III, Sections 3.1 through 3.4 within the geographic area as set forth in Article II of the May 1, 2014 through April 30, 2019 collective-bargaining agreement between the Union and Western New York Association of Plumbing and Mechanical Contractors, Inc.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain in good faith with the Union as the limited exclusive collective-bargaining representative of the unit employees during the term of the 2014–2019 Agreement (effective May 1, 2014 through April 30, 2019), and WE WILL honor and comply with the terms and conditions of the 2014–2019 Agreement.

WE WILL rescind any and all changes to unit employees' terms and conditions of employment that were implemented by our not applying the 2014–2019 Agreement to the unit employees.

WE WILL make our unit employees whole for any loss of earnings and other benefits they may have suffered as a result of our unlawful failure, between about July 24, 2018, and April 30, 2019, to abide by and apply the terms of the 2014–2019 Agreement to our unit employees, with interest.

WE WILL make all contractually required contributions to our unit employees' fringe benefit funds that we failed to make between about July 24, 2018, and April 30, 2019, if any, including any additional amounts due the funds, and WE WILL reimburse our unit employees for any expenses ensuing from our failure to make the required payments, with interest.

WE WILL compensate our unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 3, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

SPECTRUM MECHANICAL SERVICES LLC

The Board's decision can be found at www.nlr.gov/case/03-CA-234490 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

